

Application Serial No. 10/575,451
Reply to Office Action of November 24, 2008

PATENT
Docket: CU-4770

REMARKS

In the Office Action, dated November 24, 2008, the Examiner states that Claims 1-6 are pending, Claims 1-5 are rejected and Claim 6 is objected to. By the present Amendment, Applicant amends the claims.

Claim Rejections under 35 U.S.C. §102(b)

Claims 1-5 are rejected under 35 U.S.C. §102(b) as being anticipated by Ogata (JP 2002-285506) for the reasons of record. Applicant respectfully disagrees with and traverses this rejection.

Claim 1 of Ogata teaches "an asphalt composition for payment in which 100 parts of high degree hydrocracking process residue and 90 parts of asphalt are mixed". Claim 2 teaches "an asphalt composition for payment in which 20 parts of solvent extracted oil is added to 100 parts of the composition of claim 1".

According to the rejection, the Office Action made a comparison between Claims 1 and 2 of Ogata and Claim 1 of the instant application, and then asserted that the composition of Claim 1 or 2 of Ogata contains 52 parts (%) of the high degree hydrocracking process residue, which is included in the range of 20 to 100 mass % of the high degree hydrocracking process residue of the instant application. For this reason, the present claims were rejected as anticipated.

Applicant indicates that Claim 1 has been cancelled and Claim 2 is currently amended to recite different mineral oil plasticizers based on the description of paragraph [0036]. According to the amendment, Claim 2 has now been clarified to recite a plasticizer containing a high degree hydrocracking process residue and a mineral oil plasticizer.

When comparing the above Claims 1 and 2 of Ogata and amended Claim 2 of the present application, it should be understood that even if content of the high degree hydrocracking process residue in one composition is the same as the other components therewith, the obtained or resultant compositions become completely different.

In the plasticizer of amended Claim 2, examples of the mineral oil plasticizer include: a solvent extracted oil (aromatic lubricating oil), a paraffinic mineral oil, a naphthenic mineral oil, and a mixture thereof so that no asphalt is contained in the plasticizer (see definition of mineral oil plasticizer in paragraph [0017] of the description.), but also no other asphalt components are included in the composition.

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Therefore, the structure recited in the rejected claims is different from that of Claims 1 and 2 of Ogata containing asphalt as a major component.

Another substantial difference between Claims 1 and 2 of Ogata and the present claims is that the plasticizer of amended Claim 2 is suitably used for producing a polymer composition (Claim 4), a rubber composition (Claim 5), and a tire (Claim 6), but it is not used as a plasticizer for asphalt.

As above, since the plasticizer of amended Claim 2 of the present application does not contain asphalt, content of polar material, which tends to cause side reaction with the polymers when the high degree hydrocracking process residue is used as a plasticizer, is low, as a reflective effect thereto, the content of sulfur therein is also low, which is advantageous as a plasticizer (paragraph [0031] of the description).

In addition, as the solvent extracted oil contains harmful polycyclic aromatic organic substances, conventional usage of the solvent extracted oil by itself has caused a problem of contamination due to elution of the plasticizer (see paragraph [0005] of the description.). Meanwhile, by adding the high degree hydrocracking process residue to the solvent extracted oil, aspects of the present application can sufficiently exhibit excellent low viscosity under a high temperature condition in the step of polymer processing. Further, by becoming solid state at a biological temperature or operating temperature, it is capable of inhibiting elution of the harmful substances. Thus, the subject invention provides excellent effects (see paragraph [0011] and [0018] of the description).

In view of the foregoing paragraph and the structural differences recited therein, Applicant respectfully asserts that Ogata does not teach or suggest each and every feature of currently amended Claim 2. Since independent Claim 2 is allowable over the prior art, Applicant asserts that all claims depending therefrom are allowable for at least the same reasons, as well as for the features that they recite. As such, Applicant respectfully requests withdrawal of the present rejection under 35 U.S.C. §102(b).

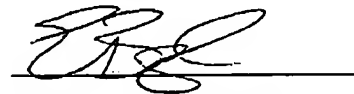
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In light of the foregoing response, all the outstanding objections and rejections are considered overcome. Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

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Date



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